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Secretary for  
Environmental  
Protection

# California Regional Water Quality Control Board

## Los Angeles Region

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Mr. Paul Caron  
California Department of Transportation  
120 South Spring Street, MS 16A  
Los Angeles, CA 90012

### **WATER QUALITY CERTIFICATION FOR PROPOSED LA-1 DETENTION BASIN #22253 (BUSCH) SEDIMENT REMOVAL PROJECT, PACIFIC OCEAN, CITY OF MALIBU, LOS ANGELES COUNTY (File No. 04-073)**

Dear Mr. Caron:

Regional Board staff has reviewed your request on behalf of the California Department of Transportation for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on May 18, 2004.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Ms. Parvaneh Khayat, Section 401 Program, at (213) 576-5733.

\_\_\_\_\_[Original Signed by]\_\_\_\_\_  
Jonathan Bishop  
Interim Executive Officer

\_\_\_\_\_  
July 14, 2004

**California Environmental Protection Agency**



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*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

## **DISTRIBUTION LIST**

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## ATTACHMENT A

### Project Information File No. 04-073

1. Applicant: Paul Caron  
California Department of Transportation  
120 South Spring Street, MS 16A  
Los Angeles, CA 90012  
  
Phone: (213) 897-0610      Fax: (213) 897-0685
2. Applicant's Agent: None
3. Project Name: LA-1 Detention Basin #22253 (Busch Basin) Sediment Removal
4. Project Location: Route 1, Pacific Coast Hwy, PM 37.5  
North of Carbon Canyon, South of Malibu Creek  
Malibu, Los Angeles County  
  
Longitude: 118° 39.611W; Latitude: 34° 02.381 N  
Longitude: 118.6599; Latitude: 34.0397  
Longitude: 118.6599; Latitude: 34.396  
Longitude: 118.6600; Latitude: 34.0396  
Longitude: 118.6601; Latitude: 34.0397  
Longitude: 118.6602; Latitude: 34.0397  
  
Township 01S      Range 17W      Malibu Beach Quadrant
5. Type of Project: Removal of sediment from basin
6. Project Description: Purpose:  
  
The purpose of this project is to clear accumulated sediment and vegetation out of the detention basin.  
  
Description:  
  
The proposed project is located in the Santa Monica Mountains. The associated detention basin drains to Carbon Beach. The immediate work areas occur in semi-modified blue line drainage with rudural and native vegetation, which is a tributary to the Pacific Ocean. The project site is adjacent to open natural areas within the Topanga Malibu Sequit, and is a reserve to an unnamed canyon. The bed and banks of drainage are composed of native and nonnative invasive plant species with some native coastal sage scrub and riparian scrub species.

## ATTACHMENT A

### Project Information File No. 04-073

The proposed project will involve the clearing of accumulated sediment and nonnative vegetation out of the detention basin located on the northbound side, behind PCH 22253 (Louis Busch Realty), in the City of Malibu. This basin is within the Caltrans right of way. Caltrans has agreed to not remove any native vegetation growing into the basin from adjacent slopes. These plants will be flagged before project activities commence.

The project proposes to maintain the unlined debris basin by removing accumulated sediment and vegetation. The basin is currently filled to capacity, and the following maintenance activities should be carried out in order to maintain the area's drainage system. Approximately 8,333 cubic yards or less of material will be removed from the basin. An excavator, bobcat loader operated within the basin, while a dump truck will be used to remove the material off site. The basin can be accessed through the south end portion of the basin itself. Material removed will be placed in Puerco Canyon disposal site to dry out.

The Portrero Canyon Disposal Site is located north of Portrero Canyon Road on Pacific Coast Highway in the City of Pacific Palisades. The Portrero Canyon Disposal Site is located at PM 37.5, in Caltrans right of way. The site is currently used as a disposal site for Caltrans. The sediment from Busch Basin will be placed on the existing disturbed fill area. The area of impact is void of native vegetation, with some sparsely, non-native ruderal species. Caltrans plans to remove the sediment from the Portrero Disposal Site to another location, under a different project permit.

- |  |  |
|--|--|
| 7. Federal Agency/Permit:                                  | U.S. Army Corps of Engineers<br>NWP No. 3  |
| 8. Other Required Regulatory Approvals:                    | California Department of Fish and Game<br>Coastal Commission   |
| 9. California Environmental Quality Act (CEQA) Compliance: | The proposed project is Categorically Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 (Replacement or Reconstruction). |
| 10. Receiving Water:                                       | Receiving water from the Pacific Ocean (Hydrologic Unit No. 404.21)  |

## ATTACHMENT A

### Project Information File No. 04-073

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|--|---|
| 11. Designated Beneficial Uses:                                      | MUN*, REC-1, REC-2, WARM, COLD, WILD, RARE, MIGR, SPWN, WET<br><br>*Conditional   |
| 12. Impacted Waters of the United States:                            | Non-wetland waters (vegetated streambed): 0.01 temporary and 0.038 permanent acres<br><br>Non-wetland waters (unvegetated streambed): 0.041 permanent acres   |
| 13. Dredge Volume:   | None  |
| 14. Related Projects Implemented/to be Implemented by the Applicant: | It is anticipated by the Applicant that this site will be cleaned on an annual basis in the future.   |
| 15. Avoidance/Minimization Activities:                               | <p>The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:</p> <ul style="list-style-type: none"><li>• Nonnative vegetation removal will occur between February 1 and March 1</li><li>• No debris will be stored on site</li><li>• Work in basin will occur between May 1 to October 1.</li><li>• No stockpiling of materials will occur near or in the streambed</li><li>• Pans will be placed under vehicles</li><li>• Silt fencing will be in place</li><li>• Vehicle and equipment cleaning will not be allowed in basin.</li><li>• Vehicle and equipment fueling will not be allowed in basin</li><li>• Vehicle and equipment maintenance will not be allowed in basin</li><li>• Perimeter of project area will be flagged off.</li></ul> |
| 16. Proposed Compensatory Mitigation:                                | As an alternative, the Applicant has proposed to provide funding to the Mountains Restoration Trust for 0.127 acres of wetland creation or restoration.   |
| 17. Required Compensatory Mitigation:                                | <i>See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.</i>  |

## ATTACHMENT B

### Conditions of Certification File No. 04-073

#### STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

#### ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times so they are familiar with all conditions set forth.
3. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.

## ATTACHMENT B

### Conditions of Certification File No. 04-073

4. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the state.
5. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
6. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
7. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
8. The Applicant shall not conduct any construction activities within waters of the state during a rainfall event. The Applicant shall maintain **a five-day (5-day) clear weather forecast** before conducting any operations within waters of the state.
9. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all clearing activities where clearing involves areas to be partially cleared (i.e. some vegetation is to remain in the same reach or in an adjacent reach). The biologist shall be available on site during clearing activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
10. No mechanical basin clearing activities shall take place in any basin where there are any native species. Hand clearing through the vegetation shall take place in such basin if and only if necessary for flood control purposes and/or removal of non-native species. Hand clearing may be performed annually, for the duration of this Certification, in an effort to keep the basin clear of sediment and non-native vegetation.

## ATTACHMENT B

### Conditions of Certification File No. 04-073

11. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
12. All maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
13. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities, and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.
14. The Applicant shall restore all areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the state. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
15. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporal loss of **0.01 acres** waters of the United States by creating or restoring riparian habitat at a minimum 1:1 area replacement ratio (0.01 acres). The Applicant shall also



## ATTACHMENT B

### Conditions of Certification File No. 04-073

provide compensatory mitigation for the proposed permanent impacts to 0.038 acres of vegetated streambed 0.041 acres of unvegetated streambed within waters of the United States/Federal jurisdictional wetlands by creating or restoring riparian habitat/Federal jurisdictional wetland habitat at a minimum 2:1 area replacement ratio (0.076 acres) and 1:1 area replacement ratio (0.041 acres) for a total of 0.127 acres of mitigation area. As an alternative, the Applicant has chosen to provide \$7,620 in funding to the Mountains Restoration Trust for the creation or restoration of a total of 0.127 acres of riparian habitat within waters of the United States/Federal jurisdictional wetlands. The mitigation site shall be located within the Malibu Creek Watershed unless otherwise approved by this Regional Board. The boundary of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.

16. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
17. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1<sup>st</sup>** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. The report shall describe in detail all of the clearing activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
  - (a) Color aerial and representative cross-section photo documentation of the pre- and post-project conditions organized in an easy to interpret format;
  - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
  - (c) The overall status of project including a detailed schedule of work;
  - (d) Copies of all permits revised as required in Additional Condition 1; and
  - (e) A certified statement from the permittee or his/her representative that all conditions of this Certification have been met.
18. All applications, reports, or information submitted to the Regional Board shall be signed:

**Conditions of Certification**  
**File No. 04-073**

Executed on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Signature)  
(Title)"

## ATTACHMENT B

### Conditions of Certification File No. 04-073

implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.

23. The Applicant or their agents shall report any noncompliance, which may endanger health or the environment. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
24. *Enforcement:*
  - (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
  - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

## **ATTACHMENT B**

### **Conditions of Certification File No. 04-073**

25. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.